

LOS ALAMOS NATIONAL LABORATORY PROCEDURES FOR RESPONDING TO REPORTS OF SEXUAL HARASSMENT

The purpose of the procedures is to (1) provide for sexual harassment training and education to all Laboratory personnel, especially managers and supervisory employees; (2) to provide Los Alamos National Laboratory (LANL) personnel with a process for reporting alleged incidents of sexual harassment in accordance with the policy; and (3) to provide for prompt and effective response to reports of sexual harassment in accordance with the policy.

The LANL Associate Director for Administration and the UC Senior Vice President for Business and Finance must approve any exceptions to these procedures.

A. Laboratory Sexual Harassment Resources

1. The Human Resources Division Leader is designated as the Sexual Harassment Officer (SHO). The SHO's duties include, but are not limited to, the duties listed below.
 - a. Plan and manage Laboratory sexual harassment education and training programs, including: wide dissemination of this policy to Laboratory personnel; distribution of educational materials to promote compliance with the policy and familiarity with Laboratory reporting procedures; and specific training for those Laboratory employees responsible for reporting or responding to reports of sexual harassment. Individuals also have access to Laboratory policy and contact information by using the following URL address:
<http://www.lanl.gov/orgs/hr/relations/>
 - b. Develop and implement Laboratory procedures to provide for prompt and effective response to reports of sexual harassment in accordance with this policy, and submit

Laboratory procedures to the Associate Vice President, Human Resources and Benefits for review and approval.

- c. Maintain records of reports of sexual harassment and actions taken in response to reports, including records of investigations, voluntary resolutions, and disciplinary action, as appropriate.
 - d. Prepare and submit an annual report to the Office of the President, for submission to The Regents, on sexual harassment complaint activity during the preceding calendar year in a format specified by the Associate Vice President, Human Resources and Benefits.
2. The Laboratory has trained advisors to assist individuals with concerns about sexual harassment. Such individuals are encouraged to call Staff Relations (SR), the individual's Human Resources Generalist, the Office of Equal Opportunity & Diversity (OEOD), the Employee Assistance Program (EAP) or the OMBUDS Office for assistance. Employees are advised to ask questions about the level of confidentiality provided by each office, as this may vary depending upon the circumstances.

B. Procedures for Reporting and Responding to Reports of Sexual Harassment

1. Making Reports of Sexual Harassment

All Laboratory personnel are encouraged to contact the SHO or SR if they observe or encounter conduct that may be subject to the Laboratory's Policy on Harassment (Including Sexual Harassment) Prevention, which may be found at AM711. Reports of sexual harassment may be brought to the SHO, SR, a Human Resources Generalist, OEOD, or to any manager, supervisor, or other designated employee responsible for responding to reports of sexual harassment. If the person to whom harassment normally would be reported

is the individual accused of harassment, reports may be made to another manager, supervisor, SR, a Human Resources Generalist, OEO or designated employee. Managers, supervisors, and designated employees are required to notify the SHO or SR to review and investigate sexual harassment complaints when a report is received.

Reports of sexual harassment shall be brought as soon as possible after the alleged conduct occurs. Prompt reporting will enable the Laboratory to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary action.

For reports of sexual harassment brought after one year, the Laboratory shall respond to the greatest extent possible, taking into account the amount of time that has passed since the alleged conduct occurred.

2. Options for Resolution

Individuals making reports of sexual harassment shall be informed about options for resolving potential violations of AM711. These options include procedures for Early Resolution, procedures for Formal Investigation, and procedures under the Laboratory's Complaint Resolution policy, AM111. Individuals making reports also shall be informed about policies applying to confidentiality of reports under this policy (see F. below). The Laboratory shall respond to the greatest extent possible to reports of sexual harassment brought anonymously or brought by third parties not directly involved in the harassment. However, the response to such reports may be limited if information contained in the report cannot be verified by independent facts.

Individuals bringing reports of sexual harassment shall be informed about the range of possible outcomes of the report, including interim protections, remedies for the individual harmed by the harassment, and disciplinary actions that

might be taken against the accused as a result of the report, including information about the procedures leading to such outcomes.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment actions) for having made a report of sexual harassment in good faith, who assisted someone with a report of sexual harassment, or who participated in any manner in an investigation or resolution of a report of sexual harassment, may make a report of retaliation under these procedures. The report of retaliation shall be treated as a report of sexual harassment and will be subject to the same procedures.

3. Procedures for Early Resolution

The goal of Early Resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. The Laboratory shall utilize Early Resolution options when the parties desire to resolve the situation cooperatively and/or when a Formal Investigation is not likely to lead to a satisfactory outcome.

Early Resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for Early Resolution will be flexible and encompass a full range of possible appropriate outcomes. Early Resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted educational and training programs, or providing remedies for the individual harmed by the harassment.

Early Resolution also includes options such as discussions with the parties, development of recommendations for resolution, and performance of a follow-up review after a period of time to assure that the resolution has been implemented effectively. Early Resolution

may be appropriate for responding to anonymous reports and/or third party reports.

Steps taken to encourage Early Resolution and agreements reached through Early Resolution efforts will be documented.

While the Laboratory encourages Early Resolution of a complaint, the Laboratory does not require that parties participate in Early Resolution prior to the Laboratory's decision to initiate a formal investigation.

Some reports of sexual harassment may not be appropriate for Early Resolution, but may require a formal investigation at the discretion of the SHO.

4. Procedures for Formal Investigation

In response to reports of sexual harassment in cases where Early Resolution is inappropriate (such as when the facts are in dispute in reports of serious misconduct, or when reports involve individuals with a pattern of inappropriate behavior or allege criminal acts such as stalking, sexual assault or physical assault) or in cases where Early Resolution is unsuccessful, the Laboratory shall conduct a Formal Investigation, typically performed by SR.

Formal Investigation of reports of sexual harassment will be conducted according to the following standards:

- a. The individual(s) conducting the investigation will be familiar with the Policy on Sexual Harassment and have training or experience in conducting investigations.
- b. SR will provide individuals accused of sexual harassment with a written statement of the allegations filed against him/her. These individuals will also be given a copy of LANL's harassment policy, SR's investigation procedures, and given the opportunity to respond.
- c. The investigation generally will include interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts by the investigator to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. The investigator will instruct participants in an investigation that maintaining confidentiality is essential to protect the integrity of the investigation.
- d. The complainant, the accused and other witnesses may have a representative present when he or she is interviewed consistent with Laboratory policy. This policy does not entitle an individual to a non-employee representative except as required by the California Higher Education Employer-Employee Relations Act.
- e. At any time during the investigation, the investigator may recommend that interim protections or remedies for the complainant or witnesses be provided by appropriate Laboratory officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working arrangements.

Failure to comply with the terms of interim protections may be considered a separate violation of AM711.
- f. The investigation shall be completed as promptly as possible and in most cases within 60 working days of the date the request for formal investigation was filed. The SHO may extend this deadline.
- g. Generally, an investigation shall result in a written report that at a minimum includes:

1. Statement of the allegations and issues,
2. Positions of the parties,
3. Summary of the evidence,
4. Findings of fact, and
5. Determination by the investigator as to whether University policy has been violated.
6. Recommendation for actions to resolve the complaint, including educational programs, remedies for the complainant, and a referral to disciplinary procedures as appropriate.

The report shall be submitted to an appropriate Laboratory official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions.

- h. The complainant and the accused will be informed promptly in writing when the investigation is completed. The complainant will be informed if there were findings made that the policy was or was not violated and of actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with Laboratory policies protecting individuals' privacy, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the accused.
- i. The complainant and the accused may request a copy of the investigative report pursuant to Laboratory policy governing privacy and access to personal information. However, the report shall be redacted to protect the privacy of personal and confidential information regarding all

individuals other than the individual requesting the report in accordance with University policy.

C. AM 111 Complaints Involving Allegations of Sexual Harassment

An individual who believes he or she has been subjected to sexual harassment may file a complaint pursuant to Laboratory policy AM111. The complaint may be filed instead of or in addition to making a report of sexual harassment to the SHO or other appropriate official designated to review and investigate sexual harassment complaints under this policy. An AM111 complaint alleging sexual harassment must meet all the requirements for proper filing under AM 111.

If an AM111 complaint alleging sexual harassment is filed in addition to a report made to the SHO or other appropriate official designated to review and investigate sexual harassment complaints under this policy, the AM111 complaint will be held in abeyance pending the outcome of the Early Resolution or Formal Investigation procedures. If the individual wishes to proceed with the AM111 complaint thereafter, the Early Resolution or Formal Investigation result will constitute the first step the AM111 process, i.e., the initial manager response.

An individual who has made a report of sexual harassment also may file an AM111 complaint alleging that the actions taken in response to the report of sexual harassment did not follow Laboratory policy. Such a complaint may not be filed to address a disciplinary sanction imposed upon the accused. AM111 complaint must meet all requirements for proper filing. The time period for filing begins on the date the individual was notified of the outcome of the sexual harassment investigation or other resolution process pursuant to this policy, and/or of the actions taken by Laboratory management in response to the report of sexual harassment, whichever is later.

D. Remedies and Referral to Disciplinary Procedures

Findings of violations of AM711 may be considered in determining remedies for individuals harmed by the sexual harassment

and shall be referred to applicable disciplinary procedures as defined in AM112. Procedures under this policy shall be coordinated with applicable local complaint resolution, grievance, and disciplinary procedures to avoid duplication in the fact-finding process whenever possible.

Violations of AM711 may include engaging in sexual harassment, retaliating against a complainant reporting sexual harassment, violating interim protections, and filing intentionally false charges of sexual harassment. Investigative reports made pursuant to this policy may be used as evidence in subsequent complaint resolution, grievance, and disciplinary proceedings as permitted by the applicable procedures.

E. Privacy

The Laboratory will protect the privacy of individuals involved in a report of sexual harassment to the extent required by law and Laboratory policy. A report of sexual harassment may result in the gathering of extremely sensitive information about individuals in the Laboratory. While such information is considered confidential, Laboratory policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual harassment. In such cases, every effort will be made to redact the records in order to protect the privacy of individuals.

An individual who has made a report of sexual harassment may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report). However, information regarding disciplinary action taken against the accused shall not be disclosed without the accused consent, unless it is necessary to ensure compliance with the action or the safety of individuals.

F. Confidentiality of Reports of Sexual Harassment

The Laboratory maintains a confidential information phone line through the Laboratory OMBUDS office accessible to all personnel for consultation, advice and information regarding

sexual harassment, as well as the application of these procedures. In addition, individuals may consult with the EAP in a confidential setting. However, these resources may not be used to officially report sexual harassment. Individuals who consult with these confidential resources will be advised that their discussions in these settings are not considered reports of sexual harassment and that without additional action by the individual, the discussions will not result in any action by the Laboratory to resolve their concerns.

Reports of sexual harassment to Laboratory employees, such as the SHO, managers, supervisors, SR, Human Resources, the OEOD and other designated employees place an obligation on the Laboratory to respond to reports of sexual harassment, even if the individual making the report requests that no action be taken.

An individual's request regarding the confidentiality of reports of sexual harassment will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the Laboratory's legal obligation to ensure an environment free from sexual harassment and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the Laboratory will comply with requests for confidentiality to the extent possible.

G. Retention of Records Regarding Reports of Sexual Harassment

The SHO is responsible for maintaining records relating to sexual harassment reports, investigations, and resolutions. Records shall be maintained in accordance with Laboratory records policies and the California Information Practices Act. Records may be maintained longer at the discretion of the SHO in cases where the parties have a continuing affiliation with the Laboratory. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from Laboratory Counsel.

H. Policies

- 1) Laboratory policy AM711 Harassment (Including Sexual Harassment) Prevention
- 2) Laboratory policy AM111 (Complaint Resolution)
- 3) Laboratory policy AM112 (Discipline Policy and Procedures)